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**HOUSE BILL 290**

**47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005**

**INTRODUCED BY**

**Justine Fox-Young**

**AN ACT**

**RELATING TO PUBLIC MONEY; ELIMINATING THE DISTRIBUTION FROM THE TOBACCO SETTLEMENT PERMANENT FUND TO THE GENERAL FUND; FURTHER RESTRICTING THE PURPOSES OF THE TOBACCO SETTLEMENT PERMANENT FUND; DECLARING AN EMERGENCY.**

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:**

**Section 1. Section 6-4-9 NMSA 1978 (being Laws 1999, Chapter 207, Section 1, as amended) is amended to read:**

**"6-4-9. TOBACCO SETTLEMENT PERMANENT FUND--INVESTMENT-- DISTRIBUTION. --**

**A. The "tobacco settlement permanent fund" is created in the state treasury. The fund shall consist of money distributed to the state pursuant to the master settlement agreement entered into between tobacco product manufacturers and various states, including New Mexico, and executed November**

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1 23, 1998 or any money released to the state from a qualified  
2 escrow fund or otherwise paid to the state as authorized by the  
3 model statute, Sections 6-4-12 and 6-4-13 NMSA 1978, enacted  
4 pursuant to the master settlement agreement. Money in the fund  
5 shall be invested by the state investment officer as land grant  
6 permanent funds are invested pursuant to Chapter 6, Article 8  
7 NMSA 1978. Income from investment of the fund shall be  
8 credited to the fund. Money in the fund shall not be expended  
9 for any purpose, except as provided in this section.

10 B. ~~[In fiscal years 2003 through 2006, a~~  
11 ~~distribution shall be made from the tobacco settlement~~  
12 ~~permanent fund to the general fund in an amount equal to one~~  
13 ~~hundred percent of the total amount of money distributed to the~~  
14 ~~tobacco settlement permanent fund in that fiscal year.~~

15 C. ~~In fiscal year 2007 and in each fiscal year~~  
16 ~~thereafter]~~ An annual distribution shall be made from the  
17 tobacco settlement permanent fund to the tobacco settlement  
18 program fund of an amount equal to fifty percent of the total  
19 amount of money distributed to the tobacco settlement permanent  
20 fund in that fiscal year until that amount is less than an  
21 amount equal to four and seven-tenths percent of the average of  
22 the year-end market values of the tobacco settlement permanent  
23 fund for the immediately preceding five calendar years.  
24 Thereafter, the amount of the annual distribution shall be four  
25 and seven-tenths percent of the average of the year-end market

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1 values of the tobacco settlement permanent fund for the  
2 immediately preceding five calendar years. In the event that  
3 the actual amount distributed to the tobacco settlement program  
4 fund in a fiscal year is insufficient to meet appropriations  
5 from that fund for that fiscal year, the secretary of finance  
6 and administration shall proportionately reduce each  
7 appropriation accordingly.

8 ~~[D. The tobacco settlement permanent fund shall be~~  
9 ~~considered a reserve fund of the state and, as a reserve fund,~~  
10 ~~may be expended in the event that general fund balances,~~  
11 ~~including all authorized revenues and transfers to the general~~  
12 ~~fund and balances in the general fund operating reserve, the~~  
13 ~~appropriation contingency fund and the tax stabilization~~  
14 ~~reserve, will not meet the level of appropriations authorized~~  
15 ~~from the general fund for a fiscal year. In that event, in~~  
16 ~~order to avoid an unconstitutional deficit, the legislature may~~  
17 ~~authorize a transfer from the tobacco settlement permanent fund~~  
18 ~~to the general fund but only in an amount necessary to meet~~  
19 ~~general fund appropriations.]"~~

20 Section 2. TEMPORARY PROVISION-- DISTRIBUTIONS DURING  
21 FISCAL YEAR 2005.-- Notwithstanding the provision of Subsection  
22 B of Section 6-4-9 NMSA 1978, the distribution from the tobacco  
23 settlement permanent fund to the tobacco settlement program  
24 fund in fiscal year 2005 shall equal the amount calculated  
25 pursuant to that subsection less the amount already distributed

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1 in fiscal year 2005, prior to the effective date of this act,  
2 from the tobacco settlement permanent fund to the general fund;  
3 provided that, if the amount to be distributed pursuant to this  
4 section is less than zero, then no distribution shall be made  
5 to the tobacco settlement program fund in fiscal year 2005.

6 Section 3. EMERGENCY.--It is necessary for the public  
7 peace, health and safety that this act take effect immediately.

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